

§ 4211.34

(1) *Amount of unfunded vested benefits.* The plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws shall be reduced by the sum of—

(i) The value as of that date of all outstanding claims for withdrawal liability that can reasonably be expected to be collected, with respect to employers that withdrew before that plan year; and

(ii) The sum of the amounts that would be allocable under paragraph (b) of this section to all employers that have an obligation to contribute in the plan year preceding the plan year in which the employer withdraws and that also had an obligation to contribute in the first plan year ending after the initial plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the last five full plan years ending before the date on which the employer withdraws; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) by all employers for the last five full plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods that were collected in those plan years, and decreased by any amount contributed by an employer that withdrew from the plan (or prior plan) during those plan years.

§ 4211.34 Rolling-5 method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this

29 CFR Ch. XL (7-1-06 Edition)

section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 4211.32(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 4211.32(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over five years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share determined under § 4211.33(c).

§ 4211.35 Direct attribution method for withdrawals after the initial plan year.

The allocation method under this section is the allocation method described in section 4211(c)(4) of ERISA.

§ 4211.36 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.

(a) *General rule.* A plan using any of the allocation methods described in §§ 4211.32 through 4211.34 may, by plan amendment and without PBGC approval, adopt any of the modifications described in this section.

(b) *Restarting initial liabilities.* A plan may be amended to allocate the initial plan year unfunded vested benefits under § 4211.32(b), § 4211.33(b), or § 4211.34(b) without separately allocating to employers the liabilities attributable to their participation under their prior plans. An amendment under this paragraph must include an allocation fraction under paragraph (d) of this section for determining the employer's proportional share of the total unfunded benefits as of the close of the initial plan year.

(c) *Amortizing initial liabilities.* A plan may by amendment modify the amortization of initial liabilities in either of the following ways:

(1) If two or more plans that use the presumptive allocation method of section 4211(b) of ERISA merge, the merged plan may adjust the amortization of initial liabilities under § 4211.32(b) to amortize those unfunded vested benefits over the remaining length of the prior plans' amortization schedules.

(2) A plan that has adopted the allocation method under § 4211.33 or § 4211.34 may adjust the amortization of initial liabilities under § 4211.33(b) or § 4211.34(b) to amortize those unfunded vested benefits in level annual installments over any period of at least five and not more than fifteen years.

(d) *Changing the allocation fraction.* A plan may by amendment replace the allocation fraction under § 4211.32(b), § 4211.33(b), or § 4211.34(b) with any of the following contribution-based fractions—

(1) A fraction, the numerator of which is the total amount required to be contributed under the merged and prior plans by the withdrawing employer in the 60-month period ending on the last day of the initial plan year, and the denominator of which is the sum for that period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year;

(2) A fraction, the numerator of which is the total amount required to be contributed by the withdrawing employer for the initial plan year and the four preceding full plan years of its prior plan, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year; or

(3) A fraction, the numerator of which is the total amount required to be contributed to the plan by the withdrawing employer since the effective date of the merger, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year.

§ 4211.37 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

If an employer withdraws after the effective date of a merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each plan had remained a separate plan. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of the plan's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal.

PART 4219—NOTICE, COLLECTION, AND REDETERMINATION OF WITHDRAWAL LIABILITY

Subpart A—General

Sec.

4219.1 Purpose and scope.

4219.2 Definitions.

Subpart B—Redetermination of Withdrawal Liability Upon Mass Withdrawal

4219.11 Withdrawal liability upon mass withdrawal.

4219.12 Employers liable upon mass withdrawal.

4219.13 Amount of liability for *de minimis* amounts.

4219.14 Amount of liability for 20-year-limitation amounts.

4219.15 Determination of reallocation liability.

4219.16 Imposition of liability.

4219.17 Filings with PBGC.

4219.18 Withdrawal in a plan year in which substantially all employers withdraw.

4219.19 Method and date of issuance; computation of time.

4219.20 Information collection.

Subpart C—Overdue, Defaulted, and Overpaid Withdrawal Liability

4219.31 Overdue and defaulted withdrawal liability; overpayment.

4219.32 Interest on overdue, defaulted and overpaid withdrawal liability.

4219.33 Plan rules concerning overdue and defaulted withdrawal liability.

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